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IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5701 of 2007

Maruti Vithoba Koli .. Petitioner

versus

State of Maharashtra & ors. .. Respondents

...

Mr.R.K. Mendadkar for the petitioner.

Mr.R.D. Rane, G.P.for the respondent nos.1,2 & 4.

CORAM : S.B. MHASE AND

D.G.KARNIK, JJ

DATED : 24th October 2007

P.C.:

1. By this petition, the petitioner challenges the order dated 17th July 2007 passed by Scheduled Tribe Certificate Scrutiny Committee (Respondent no.2) rejecting the petitioner's claim that he belongs to Hindu Mahadev Koli Scheduled Tribe and refusing to validate the tribe certificate to that effect obtained by the petitioner from the Sub-divisional Officer.

2. In the affidavit dated 27th July 2007 annexed to the petition at pages nos.63, 64 the petition has given his genealogy. From the said genealogy, it is clear that the petitioner is the grandson of Balu Raju Koli. Balu Raju Koli was admitted to the school in the year 1922 and his case is recorded as "Koli" in the school in the year 1922. Brother of petitioner's grand father Bapu Raju Koli was admitted in the school in the year 1938 and his caste is recorded in the school register as "Maratha". Cousin of the petitioner's father viz. Jagannath Balku Koli was admitted to the school on 1st July 1959 and his caste is recorded as Hindu Koli in the school register. Another cousin of the petitioner father viz. Bhimrao Vithal Koli was admitted to the school on 21th June 1968 and his caste is recorded in the school register as Hindu Koli. Thus, there were atleast four entries, two of which are pre-constitution, showing the caste of the petitioner's grand father and brother of the grand father as anything other than Hindu Mahadev Koli.

3. The caste scrutiny committee has considered the castes noted in the and has also considered the entry in the school register in respect of the petitioner's father dated 21st June 1978, which shows

his caste to be Hindu Mahadev Koli. Obviously, entry regarding petitioner's father in the school register was made 28 years after "Hindu Mahadev Koli" was declared as Scheduled Tribe by the Presidential notification and therefore that entry has a less probative value than the entries of petitioner's grandfather and brother of the grand father which are preconstitutional.

4. We have perused the order of the scrutiny committee which has taken into consideration all relevant evidence produced before it. In paragraph no.15 of its decision in Madhuri Patil Vs. Addl. Commissioner reported in 1994(6) SCC 241, the Supreme Court has held that High Court exercising the jurisdiction under Article 226 does not exercise appellate powers over the decision of the caste scrutiny committee and the scope of judicial review is limited to find out whether the caste scrutiny committee has taken into consideration all relevant materials. In our opinion, since caste scrutiny committee has taken into consideration all relevant materials and the decision reached by the caste scrutiny committee on facts is a possible finding of fact, we decline to entertain the Writ Petition which is hereby rejected summarily.

(D.G.KARNIK,J) (S.B. MHASE, J)